



Surety Group - Claim

Jane Bennett Poling, Esquire

Ph.: 410-205-1044

Fax: 410-205-0605

Mail Stop: LB0201

COPY

January 28, 1998

Northern Stevedoring & Handling c/o  
Michael W. Sewright, Esquire  
Burr, Pease & Kurtz  
810 N Street  
Anchorage, Alaska 99501-3293

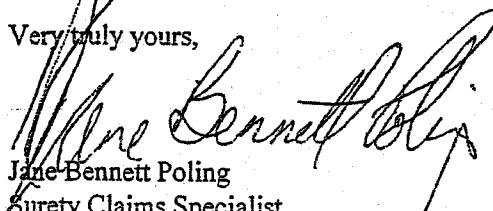
RE:	Principal:	Nugget Construction
	Obligee:	Department of the Army
	Claimant:	Northern Stevedoring & Handling
	Claim No.:	9901-S-209083-01-1
	Bond No.:	99-0120-50298-96-5
	Project:	Homer Spit Repair and Extension
	Subcontractor:	Spencer of Rock Products

Dear Mr. Sewright:

As you know on October 28, 1997, USF&G acknowledged receipt of your response alleging that you are owed money from Spencer of Rock Products for materials furnished on the above-referenced project. In our letter, we advised that in order for us to properly investigate your claim, you must complete and execute a Proof of Claim form (which was provided) and provide copies of documentation supporting your claim. As the date of this letter, we have not received your completed Proof of Claim form nor do we have any documentation in support of your claim. USF&G has not been provided sufficient documentation and information to investigate your claim. Accordingly, we respectfully deny your claim. If you believe, however, that review of additional documentation or information would alter our analysis, please provide same immediately to the undersigned.

This correspondence and all prior or subsequent communications are made with express reservation of all rights and defenses that may be available to USF&G/GIC or Nugget Construction, Inc. at law or in equity under the terms and provisions of the bond and contract documents.

Very truly yours,

  
Jane Bennett Poling  
Surety Claims Specialist

JBP/jms



**COPY**  
Surety Group - Claim

Jane Bennett Poling, Esquire  
Ph.: 410-205-1044  
Fax: 410-205-0605  
Mail Stop: LB0201

October 28, 1997

Robert LaPore, President  
Spencer Rock Products, Inc.  
P.O. Box 244063  
Anchorage, Alaska 99524

RE:	Principal:	Nugget Construction, Inc.
	Claim Number:	9901-S-209083-01-1
	Bond Number:	99-0120-50298-96-5
	Project:	Homer Spit Repair and Extension
	Claimant:	Spencer Rock Products, Inc.
	Obligee:	Department of the Army

Dear Mr. LaPore:

This letter acknowledges receipt of your correspondence dated September 5, 1997 wherein you allege that Spencer Rock Products, Inc. is owed \$1,426,707.84 from Nugget Construction, Inc. for labor and/or materials furnished on the above-captioned project. In order for us to properly investigate your claim, we request that you complete and execute the enclosed Proof of Claim form. Please include as much detail as possible and attach copies of all documentation, including but not limited to, any relevant subcontracts, signed purchase orders, signed invoices, signed delivery tickets and a statement of account.

Please note that the Proof of Claim form must be signed by an authorized representative of your company and that the form must be witnessed, dated and notarized. If this matter has been resolved please notify the undersigned as soon as possible. In the interim, we shall continue our investigation of your claim which will include contact with our principal to determine its position with regard to your assertions.

This correspondence, the release of the Proof of Claim form, and all prior or subsequent communications are made with express reservation of all rights and defenses that may be available to USF&G/GIC or Nugget Construction, Inc. at law or in equity, under the terms and provisions of the bond and contract documents.

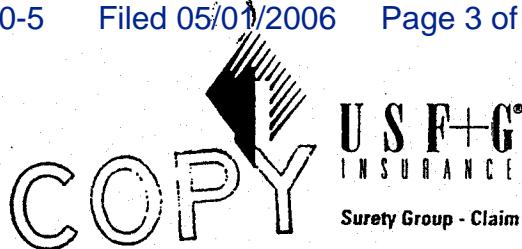
Very truly yours,

*Jane Bennett Poling*  
Jane Bennett Poling  
Surety Claims Specialist

cc: Nugget Construction, Inc.

Enclosure

JBP/jms



Surety Group - Claim

Jane Bennett Poling, Esquire  
Ph.: 410-205-1044  
Fax: 410-205-0605  
Mail Stop: LB0201

January 14, 1998

Robert LaPore, President  
Spencer Rock Products, Inc.  
P.O. Box 244063  
Anchorage, Alaska 99524

RE: Principal: Nugget Construction, Inc.  
Obligee: Department of the Army  
Claimant: Spencer Rock Products, Inc.  
Claim No.: 9901-S-209083-01-1  
Bond No.: 99-0120-50298-96-5  
Project: Homer Spit Repair and Extension

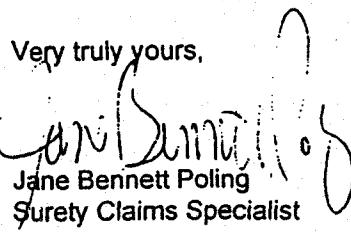
Dear Mr. LaPore:

As you know, on October 28, 1997 we acknowledged receipt of your correspondence alleging that you are owed money from the principal for materials furnished on the above-referenced project. In our letter, we advised that in order for us to properly investigate your claim, you must complete and execute a proof of claim form (which was provided) and provide copies of all documentation supporting your claim. As of the date of this letter, we have not received your completed proof of claim form nor do we have documentation in support of your claim. USF&G has not been provided sufficient documentation and information to investigate your claim.

We have, however, contacted Nugget Construction and requested documentation in support of their backcharge. They have provided us a copy of the Support Agreement indicating that you will be responsible for costs associated with support provided by Nugget in the attempt to meet scheduling guidelines. Furthermore, we received documentation evidencing additional backcharge. All of these costs are in excess of your claim. Accordingly, we respectfully deny your claim. If you believe, however, that review of additional documentation or information would alter our analysis, please provide same immediately to the undersigned.

This correspondence and all prior or subsequent communications are made with express reservation of all rights and defenses that may be available to USF&G/FGIC or Nugget Construction, Inc. at law or in equity under the terms and provisions of the bond and contract documents.

Very truly yours,

  
Jane Bennett Poling  
Surety Claims Specialist

JBP/jms



December 3, 1997

Ron Niebrugge  
Shoreside Petroleum, Inc.  
P.O. Box 1189  
700 Port Avenue  
Seward, Alaska 99664-1189

**Jane Bennett Poling, Esquire**  
Ph.: 410-205-1024  
Fax: 410-205-0605  
Mail Stop: LB0201

**COPY**

RE:	Principal:	Nugget Construction, Inc.
	Claim Number:	9901-S-209083-01-1
	Bond Number:	99-0120-50298-96-5
	Project:	DACW85-96-C-0020, Homer Spit Repair and Extension
	Claimant:	Shoreside Petroleum, Inc.
	Obligee:	Department of the Army

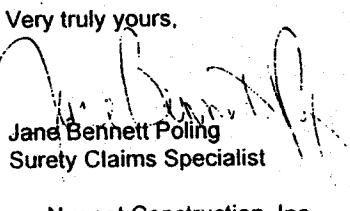
Dear Mr. Niebrugge:

This letter acknowledges receipt of your correspondence dated November 26, 1997 wherein you allege that Shoreside Petroleum, Inc. is owed \$53,501.00 from Nugget Construction, Inc. for labor and/or materials furnished on the above-captioned project. In order for us to properly investigate your claim, we request that you complete and execute the enclosed Proof of Claim form. Please include as much detail as possible and attach copies of all documentation, including but not limited to, any relevant subcontracts, signed purchase orders, signed invoices, signed delivery tickets and a statement of account.

Please note that the Proof of Claim form must be signed by an authorized representative of your company and that the form must be witnessed, dated and notarized. If this matter has been resolved please notify the undersigned as soon as possible. In the interim, we shall continue our investigation of your claim which will include contact with our principal to determine its position with regard to your assertions.

This correspondence, the release of the Proof of Claim form, and all prior or subsequent communications are made with express reservation of all rights and defenses that may be available to USF&G/FGIC or Nugget Construction, Inc. at law or in equity, under the terms and provisions of the bond and contract documents.

Very truly yours,

  
Jane Bennett Poling  
Surety Claims Specialist

cc: Nugget Construction, Inc.

Enclosure

JBP/jms

COPY



Surety Group - Claim

Jane Bennett Poling, Esquire  
Ph.: 410-205-1044  
Fax: 410-205-0605  
Mail Stop: LB0201

April 7, 1998

Mr. Ron Niebrugge  
Shoreside Petroleum, Inc.  
Corporate Office  
P. O. Box 1189, 700 Port Avenue  
Seward, Alaska 99664-1189

RE: Principal: Nugget Construction, Inc.  
Claimant: Shoreside Petroleum, Inc.  
Claim No.: 9901-S-209083-01-1  
Bond No.: 99-0120-40298-96-6  
Project: DACW85-96-C-0020, Homer Spit Repair and Extension  
Obligee: Department of the Army

Dear Mr. Niebrugge:

We have completed our review of your client's proof of claim and supporting documentation. It is my understanding that it is your contention that you supplied the fuel to Spencer Rock Products, Inc. It is the claimant's duty to provide documentation in order to demonstrate that all materials supplied were used on the above-referenced job.

After our review of the documentation provided by Shoreside Petroleum, Inc., we were unable to identify any delivery tickets which relate to the above-referenced project. Therefore, USF&G respectfully denies your claim. If, however, you feel you possess additional information which may compel a decision in the alternative, please provide same immediately.

This correspondence and all prior or subsequent communications are made with express reservation of all rights and defenses that may be available to USF&G/FVIC or Nugget Construction, Inc. at law or in equity under the terms and provisions of the bond and contract documents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jane Bennett Poling".  
Jane Bennett Poling  
Surety Claims Specialist

JBP/jaw



Surety Group - Claim

Jane Bennett Poling, Esquire

Ph.: 410-205-1044

Fax: 410-205-0605

Mail Stop: LB0201

December 3, 1997

Greg Poyner, General Manager  
Nugget Construction, Inc.  
8726 Corbin Drive  
Anchorage, Alaska 99507

RE:	Principal:	Nugget Construction, Inc.
	Claim Number:	9901-S-209083-01-1
	Bond Number:	99-0120-50298-96-5
	Project:	DACW85-96-C-0020, Homer Spit Repair and Extension
	Claimant:	Shoreside Petroleum, Inc.
	Obligee:	Department of the Army

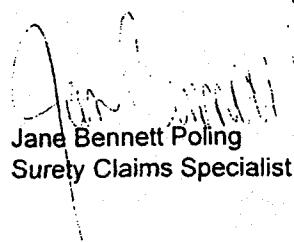
Dear Mr. Poyner:

Enclosed, please find correspondence dated November 26, 1997, which we have received from Shoreside Petroleum, Inc. wherein it is alleged that your company owes \$53,501.00 for labor or materials supplied on the above-captioned project.

We request that you promptly review this documentation and provide us with your written position and your intentions regarding this claim within fifteen (15) days. Please include all documentation that supports your position. If this claim has been paid or resolved, or is in the process of being paid, please forward to us a copy of your check or documentation evidencing the resolution of the claim.

Thank you for your cooperation in this matter.

Very truly yours,

  
Jane Bennett Poling  
Surety Claims Specialist

Enclosure

JBP/jms



**COPY**

Jane Bennett Poling, Esquire  
Ph.: 410-205-1044  
Fax: 410-205-0605  
Mail Stop: LB0201

February 17, 1998

J. Dennis Stacey, President  
Chugach Rock Corporation  
P.O. Box 91219  
Anchorage, Alaska 99509-1219

RE:	Principal:	Nugget Construction, Inc.
	Obligee:	Department of the Army
	Claimant:	Chugach Rock Corporation
	Claim No.:	9901-S-209083-01-1
	Bond No.:	99-0120-50298-96-5
	Project:	Homer Spit Repair and Extension

Dear Mr. Stacey:

As you know, on November 17, 1997, we acknowledged receipt of your claim alleging that you are owed monies from the Principal for the materials furnished on the above-referenced project. Thereafter, we sent your information to the Principal and requested their position.

Nugget Construction's position regarding this matter is that Chugach Rock Corporation was not a materialman pursuant to the Miller Act because Chugach never "furnished" or "supplied materials." The case upon which they refer is *Woods Construction Company vs. Pool Construction Company*, 348 F 2d 687 (1965). We have read this case and have determined that Nugget has a reasonable defense to this claim. Furthermore, by letter dated November 10, 1997, you explained how you arrived at the amounts requested in your proof of claim, which is basically an estimated figure from the estimated job guarantees of the Project Engineer. You further explained that this figure is not exact and that once a final survey is received by the Corps of Engineers, the true total qualities will be revealed. Therefore, based on Nugget's argument that Chugach Rock Corporation is not a materialman or supplier pursuant to the Miller Act and the fact that you have not provided the necessary documentation to support your claim, your claim is respectfully denied. If you believe, however, that review of additional documentation or information will alter our analysis, please provide same immediately.

This correspondence and all prior or subsequent communications are made with express reservation of all rights and defenses that may be available to USF&G/FGIC or Nugget Construction, Inc. at law or in equity under the terms and provisions of the bond and contract documents.

Very truly yours,

A handwritten signature of Jane Bennett Poling.

Jane Bennett Poling  
Surety Claims Specialist

JBP/jms

cc: Greg Poyner, General Manager, Nugget Construction  
John Lukjanowicz, Esquire, Oles Morrison & Rinker, LLP  
Jim Ferguson, Senior Vice President, Willis Corroon Corp. of Anchorage  
Bill Wells, USF&G



Surety Group - Claim

**COPY**  
Jane Bennett Polling  
Surety Claims Specialist  
Ph: 410-205-1044  
Fax: 410-205-0605  
Mail Stop: LB0201

March 9, 1998

J. Dennis Stacey, President  
Chugach Rock Corporation  
P.O. Box 91219  
Anchorage, Alaska 99509-1219

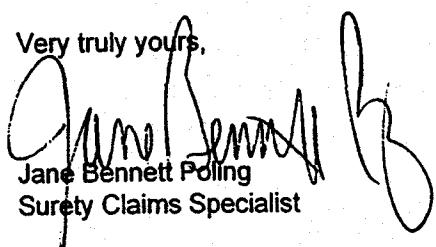
RE: Principal: Nugget Construction, Inc.  
Obligee: Department of the Army  
Claimant: Chugach Rock Corporation  
Claim No.: 9901-S-209083-01-1  
Bond No.: 99-0120-50298-96-5  
Project: Homer Spit Repair and Extension

Dear Mr. Stacey:

I have enclosed a copy of my letter dated February 17, 1998. Please refer to the second paragraph wherein Nugget Construction's defense regarding this matter is that Chugach Rock Corporation was not a materialman or a supplier pursuant to the Miller Act because Chugach never "furnished" or "supplied materials". Again, the case upon which they refer is Woods Construction Company vs. Pool Construction Company, 348 F.2d 687 (1965). After reviewing this case and determining that Nugget has a reasonable defense to this claim, USF&G has respectfully denied your claim. If you believe that review of additional documentation or information would alter our analysis, please provide this documentation immediately.

This correspondence and all prior or subsequent communications are made with express reservation of all rights and defenses that may be available to USF&G/FGIC or our principal, at law or in equity under the terms and provisions of the bond and contract documents.

Very truly yours,

  
Jane Bennett Polling  
Surety Claims Specialist

Enclosure

JBP/mlm



June 11, 1998

Mr. J. Dennis Stacey, President  
Chugach Rock Corporation  
P. O. Box 91219  
Anchorage, Alaska 99509-1219

RE:	Principal:	Nugget Construction, Inc.
	Claim No.:	9901-209083-01-1
	Bond No.:	99-0120-50298-96-5
	Claimant:	Chugach Rock Corporation
	Project:	Homer Spit Repair and Extension

Dear Mr. Stacey:

Please be advised that we have received Nugget's response to your previous correspondence dated March 12, 1998.

After reviewing your correspondence along with Nugget's correspondence and revisiting the Woods Case, we have not deviated from our previous decision to deny your claim. Your correspondence indicated that Nugget itself took rock from the quarry directly to its job site to prosecute work under the prime contract. The issue is not whether or not Nugget itself took rock from the quarry, but whether royalty payments constitute labor and materials pursuant to the Miller Act. Again, as stated in the Woods case, royalty payments from materials extracted from a quarry are not recoverable under the Miller Act.

This correspondence and all prior or subsequent communications are made with express reservation of all rights and defenses that may be available to USF&G/FGIC or Nugget Construction, Inc., at law or in equity, under the terms and provisions of the bond and contract documents.

Very truly yours,

A handwritten signature of Jane Bennett Poling.

Jane Bennett Poling  
Surety Claims Specialist  
Ph.: 410-205-1044  
Fax: 410-205-0605  
Mail Code: LB0201

Enclosures